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GOVERNOR

STATE OF MICHIGAN  
OFFICE OF FINANCIAL AND INSURANCE REGULATION  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
STANLEY "SKIP" PRUSS, DIRECTOR

KEN ROSS  
COMMISSIONER

## BILL ANALYSIS

**BILL NUMBER:** HB 5234, as introduced

**TOPIC:** Genetic Information Limitations in Medicare Supplement

**SPONSOR:** Representative Barb Byrum

**CO-SPONSORS:** None

**COMMITTEE:** Insurance

**DATE:** September 2, 2009

### POSITION

The Office of Financial and Insurance Regulation supports this legislation.

### PROBLEM/BACKGROUND

Genetic discrimination occurs when people are treated unfairly because of differences in their deoxyribonucleic acid (DNA) that increase their chances of getting a certain disease. For example, a health insurer might refuse to give coverage to a woman who has a DNA difference that raises her odds of getting breast cancer.

Tests are being developed to find DNA differences that affect our health. These genetic tests will become a routine part of health care in the future. Health care providers will use information about each person's DNA to develop more individualized ways of detecting, treating and preventing disease. Unless this DNA information is protected, it could be used to discriminate against people.

The Genetic Information Nondiscrimination Act (GINA) of 2008 is a federal law that protects Americans from being treated unfairly because of differences in their DNA that may negatively affect their health. The law prevents discrimination from health insurers and employers. The President signed the act into federal law on May 21, 2008. The parts of the law relating to health insurers took effect in May 2009, and those relating to employers will take effect by November 2009. The federal government requires the adoption of the GINA language in states' Medicare supplement laws to enable the continued regulation of the Medicare supplement line of insurance.

## **DESCRIPTION OF BILL**

HB 5234 amends the Insurance Code by adding section 3829a. House Bill 5234 prohibits the denial, conditioning, or discrimination in the pricing of a Medicare supplement policy on the basis of genetic information. The bill also limits the ability of Medicare supplement issuers from requesting or requiring genetic testing, and prohibits the collection of genetic information for underwriting purposes or other purposes prior to enrollment.

## **SUMMARY OF ARGUMENTS**

### **Pro**

Prohibiting unfair discrimination in the business of insurance, based on genetic information is a vital consumer protection for the Medicare supplement population in Michigan. Also, the adoption of the GINA language will bring Michigan into compliance with federal law. If the GINA language is not enacted, Michigan will cede its regulatory authority of Medicare supplement insurance to the federal government.

## **FISCAL/ECONOMIC IMACT**

OFIR has identified the following revenue or budgetary implications in the bill:

- (a) To the Office of Financial and Insurance Regulation:

Budgetary: None

Revenue: None

Comments:

- (b) To the Department of Energy, Labor and Economic Growth:

Budgetary: None

Revenue: None

Comments:

- (c) To the State of Michigan:

Budgetary: None

Revenue: None

Comments:

(d) To Local Governments within the State:

Budgetary: None

Revenue: None

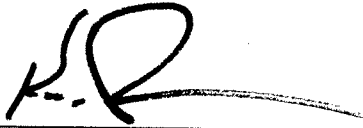
**OTHER STATE DEPARTMENTS**

None

**ANY OTHER PERTINENT INFORMATION**

The state implementation deadline for the GINA language was July 1, 2009. A companion bill is also being introduced to revise Chapter 38, Medicare supplement to bring Michigan into compliance with the Medicare Improvements for Patients and Providers Act (MIPPA).

The proposed legislation would amend the Michigan Insurance Code. OFIR has general rulemaking authority under the Insurance Code, 1956 PA 218.



Ken Ross  
Commissioner

9-1-09

Date

